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EXTRAORDINARY

PART II—Section 2

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RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 10th March, 1960:—

I

Bill No. V of 1960

A Bill to amend the Supreme Court (Number of Judges) Act, 1956.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

1. This Act may be called the Supreme Court (Number of Judges) Short title. Amendment Act, 1960.

55 of 1956. 2. In section 2 of the Supreme Court (Number of Judges) Act, Amendment of section 2. 1956, for the word “ten”, the word “thirteen” shall be substituted

STATEMENT OF OBJECTS AND REASONS

The maximum number of Judges of the Supreme Court which under article 124(1) of the Constitution was fixed at seven, excluding the Chief Justice, was raised to ten by the Supreme Court (Number of Judges) Act, 1956 (55 of 1956). This was done so as to provide for the formation of one constitutional bench of five Judges in view of the requirements of article 145(3) of the Constitution, and two other benches each consisting of a minimum of three Judges. The Chief Justice of India has pointed out that while with this increased strength of Judges it has been possible to accelerate the disposal of cases, the total pendency of cases has slightly increased during the last 3 years as the disposals did not quite keep pace with the institutions, and that it has become necessary to have one more bench consisting of three Judges to expedite the disposal of the cases in arrears. The present Bill accordingly seeks to amend the Supreme Court (Number of Judges) Act, 1956, so as to provide that the maximum number of Judges of the Supreme Court, excluding the Chief Justice, shall be thirteen.

NEW DELHI;

G. B. PANT,

The 26th February, 1960.

FINANCIAL MEMORANDUM

This Bill provides for an increase in the strength of the Supreme Court by 3 more Judges. The salary to be paid to each of these Judges will be rupees four thousand per mensem and they will also be entitled to the use of an official residence without payment of rent under rule 4 of the Supreme Court Judges Rules, 1959. The total cost on account of these Judges will, therefore, be rupees one lakh forty-four thousand per annum *plus* the cost of maintaining three official residences.

2. The salaries, allowances and pensions payable to the Judges of the Supreme Court are a charge on the Consolidated Fund of India under article 112(3) of the Constitution.

II

Bill No. III of 1960

A Bill further to amend the Indian Boilers Act, 1923.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Indian Boilers (Amendment) Act, 1960.

Amendment of section 2. 2. In section 2 of the Indian Boilers Act, 1923 (hereinafter referred to as the principal Act),—

(a) in clause (b), for the words “five gallons”, the figures and word “22·75 litres” shall be substituted;

(b) for clause (c), the following clause shall be substituted, namely:—

‘(c) “Chief Inspector”, “Deputy Chief Inspector”, and “Inspector” mean, respectively, a person appointed to be a Chief Inspector, a Deputy Chief Inspector and an Inspector under this Act;’;

(c) for clause (f), the following clause shall be substituted, namely:—

‘(f) “steam-pipe” means any pipe through which steam passes from a boiler to a prime-mover or other user or both, if—

(i) the pressure at which steam passes through such pipe exceeds 3·5 kilograms per square centimetre above atmospheric pressure; or

(ii) such pipe exceeds 254 millimetres in internal diameter;

and includes in either case any connected fitting of a steam-pipe;’.

3. In section 2B of the principal Act, the words and figures “and section 34” shall be omitted. Amendment of section 2B

4. In clause (c) of sub-section (1) of section 3 of the principal Act, for the words “twenty gallons”, the words “ninety-one litres” shall be substituted. Amendment of section 3.

5. For section 5 of the principal Act, the following section shall be substituted, namely:— Substitution of new section for section 5.

“5. (1) The State Government may appoint such persons as it thinks fit to be Inspectors for the State for the purposes of this Act, and may define the local limits within which each Inspector shall exercise the powers and perform the duties conferred and imposed on Inspectors by or under this Act. Chief Inspector, Deputy Chief Inspectors and Inspectors.

(2) The State Government may appoint such persons as it thinks fit to be Deputy Chief Inspectors for the State and may define the local limits within which each Deputy Chief Inspector shall exercise his powers and perform his duties under this Act.

(3) Every Deputy Chief Inspector may exercise the powers and perform the duties conferred and imposed on Inspectors by or under this Act and, in addition thereto, may exercise such powers or perform such duties conferred or imposed on the Chief Inspector by or under this Act, as the State Government may assign to him.

(4) The State Government shall appoint a person to be Chief Inspector for the State who may, in addition to the powers and duties conferred and imposed on the Chief Inspector by or under this Act, exercise any power or perform any duty so conferred or imposed on Deputy Chief Inspectors or Inspectors.

(5) Subject to the provisions of this Act, the Deputy Chief Inspectors and Inspectors shall exercise the powers and perform the duties conferred and imposed on them by or under this Act under the general superintendence and control of the Chief Inspector.

(6) The Chief Inspector, Deputy Chief Inspectors and Inspectors may offer such advice as they think fit to owners regarding the proper maintenance and safe working of boilers.

(7) The Chief Inspector and all Deputy Chief Inspectors and Inspectors shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code."

45 of 1860.

Amendment of section 6. 6. In clause (e) of section 6 of the principal Act, for the words "certificates of competency", the words "certificates of proficiency or competency" shall be substituted.

Amendment of section 7. 7. In the proviso to sub-section (5) of section 7 of the principal Act, after the words "of an economiser", the words "or of an unfired boiler which forms an integral part of a processing plant in which steam is generated solely by the use of oil, asphalt or bitumen as a heating medium" shall be inserted.

Amendment of section 8. 8. In section 8 of the principal Act,—

(a) in clause (c) of sub-section (1), for the words "two hundred square feet", the figures and words "18·58 square metres" shall be substituted;

(b) in the proviso to sub-section (3), after the words "an economiser", the words "or an unfired boiler which forms an integral part of a processing plant in which steam is generated solely by the use of oil, asphalt or bitumen as a heating medium" shall be inserted;

(c) for the second proviso to sub-section (4), the following proviso shall be substituted, namely:—

"Provided further that in the case of an economiser or of an unfired boiler which forms an integral part of a processing plant in which steam is generated solely by the use of oil, asphalt or bitumen as a heating medium, the date fixed for its examination shall be within sixty days from the date of the receipt of the application and the owner shall be given not less than thirty days' notice of the date so fixed.";

(d) in the first proviso to sub-section (5), after the words "of an economiser", the words "or of an unfired boiler which forms an integral part of a processing plant in which steam is generated solely by the use of oil, asphalt or bitumen as a heating medium" shall be inserted.

Amendment of section 11. 9. In clause (c) of section 11 of the principal Act, for the words "certificates of competency", the words "certificates of proficiency or competency" shall be substituted.

10. After section 20 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 20A.

"20A. (1) Any person considering himself aggrieved by an order of the appellate authority refusing under section 20 to interfere with an order not to register a boiler or not to grant or renew a certificate in respect thereof on the ground that the boiler does not conform to the regulations made under this Act may, within two months of the communication to him of such order, make an application to the Central Government for a revision of that order on the ground that such boilers are in use in other countries.

Power of Central Government to revise order of appellate authority.

(2) Upon the receipt of such an application, the Central Government may, after calling for relevant records and other information from the appellate authority and considering the observations, if any, of that authority on the application and after obtaining such technical advice as the Central Government may consider necessary, pass such order in relation to the application, as the Central Government thinks fit; and, where the revision is allowed, the order shall specify the terms and conditions on which any variations from the regulations made under this Act are to be dealt with during the examination of the boiler."

11. For section 21 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 21.

"21. An order of the Central Government under section 20A and, save as otherwise provided in sections 19, 20 and 20A, an order of an appellate authority, or of the Chief Inspector, or of a Deputy Chief Inspector, or of an Inspector, shall be final and shall not be called in question in any court."

Finality of orders.

12. In section 24 of the principal Act,—

Amendment of section 24.

(a) at the end of clause (e), the word "or" shall be inserted;

(b) after clause (e), the following clause shall be inserted, namely:—

"(f) allows another person to go inside a boiler without effectively disconnecting the same in the prescribed manner from any steam or hot water connection with any other boiler or from fuel mains."

13. In section 26 of the principal Act, for the words "six months", the words "twenty-four months" shall be substituted.

Amendment of section 26.

Amendment
of section
27A.

14. In section 27A of the principal Act,—

(a) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The Board shall consist of the following members, namely:—

(a) such number of members, including the Chairman, not exceeding fifteen, as the Central Government may nominate in the prescribed manner to represent that Government, the Union territories, the railways, the coal industry, the Indian Standards Institution, the boiler manufacturing industry, the users of boilers and, any other interests which, in the opinion of the Central Government, ought to be represented on the Board;

(b) a senior technical officer conversant with the inspection and examination of boilers, to be nominated by the Government of each State (other than a Union territory).”;

(b) in sub-section (3), the words, brackets, letter and figure “, otherwise than by the expiry of the term of office of the member referred to in clause (c) of sub-section (2),” shall be omitted;

(c) for sub-section (4), the following sub-section shall be substituted, namely:—

“(4) The Board shall have full power to regulate by means of bye-laws or otherwise its own procedure and the conduct of all business to be transacted by it, the constitution of committees and sub-committees of members and the delegation to them of any of the powers and duties of the Board.”.

Amendment
of section
28.

15. In clause (c) of section 28 of the principal Act, after the words “prescribing the fees payable therefor”, the words “and for the inspection and examination of boilers or parts thereof” shall be inserted.

Insertion of
new section
28A

16. After section 28 of the principal Act, the following section shall be inserted, namely:—

Power of
Central Government to
make rules.

“28A. (1) The Central Government may, by notification in the Official Gazette, make rules to provide for—

(a) the procedure to be followed in making applications under section 20A and the fees payable in respect of such applications; and

(b) any matter relating to the nomination of members under clause (a) of sub-section (2) of section 27A.

(2) Every rule made under sub-section (1) shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule."

17. In section 29 of the principal Act,—

Amendment
of section 29.

(a) in clause (a), after the words "Chief Inspector", the words ", of Deputy Chief Inspectors" shall be inserted;

(b) in clause (d), for the words "certificates of competency", the words "certificates of proficiency or competency" shall be substituted;

(c) for clause (f), the following clause shall be substituted, namely:—

"(f) for prescribing the fees payable for the issue of renewed certificates, for the inspection and examination of boilers or parts thereof or drawings for steam-pipes, for the testing of welders or for any other matter which, in the opinion of the State Government, would involve time and labour, and for prescribing the method of determining the amount of such fees in each case;"

18. In section 30 of the principal Act, for the words "may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees", the words "may direct that a person contravening such regulation or rule shall be punishable, in the case of a first offence, with fine which may extend to one hundred rupees, and in the case of any subsequent offence, with fine which may extend to one thousand rupees" shall be substituted.

Amendment
of section 30.

19. After section 31 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
31A.

"31A. The Central Government may give such directions as it may deem necessary to a State Government regarding the carrying into execution of the provisions of this Act, and the State Government shall comply with such directions."

Power of
Central Gov-
ernment to
give direc-
tions.

20. In section 34 of the principal Act, for sub-section (2), the following sub-sections shall be substituted, namely:—

Amendment
of section 34.

"(2) In case of any emergency the State Government may,

by general or special order in writing, exempt any boilers or steam-pipes or any class of boilers or steam-pipes or any boiler or steam-pipe from the operation of all or any of the provisions of this Act.

(3) If the State Government is satisfied that, having regard to the material, design or construction of boilers and to the need for the rapid industrialisation of the country, it is necessary so to do, it may, by notification in the Official Gazette and subject to such conditions and restrictions as may be specified in the notification, exclude any specified class of boilers or steam-pipes in the whole or any part of the State, from the operation of all or any of the provisions of this Act."

Temporary
continuance
in office of
members of
existing
Board.

21. The members of the Board holding office as such at the commencement of this Act shall continue to hold office until the Board is re-constituted under the principal Act as amended by this Act and on the re-constitution of the Board, shall cease to hold office as such.

STATEMENT OF OBJECTS AND REASONS

The Indian Boilers Act, 1923 (5 of 1923), provides mainly for the safety of life and property of persons from the dangers of explosion and the achievement of uniformity of practice in regard to the operation, inspection and maintenance of boilers. At the time of enactment, the Act was meant for the regulation of small capacity and low pressure boilers, as then the boiler industry had not then developed sufficiently. Experience of the working of the Act has revealed certain practical difficulties. Apart from this, the progressively increasing industrialisation of the country in recent years has rendered the use of boilers of higher pressures and greater capacities inevitable and the existing Act and regulations are not quite adequate to meet present day requirements, especially in the matter of inspection. In view of these considerations and of the importance of boiler operation and maintenance, it is proposed to amend the Act suitably.

2. The Central Boilers Board which has been constituted under section 27A of the existing Act deals mainly with matters concerning the registration and inspection of boilers. Boilers which were hitherto imported are also now being manufactured in India. When dealing with problems concerning the manufacture of boilers, the Board has to take into account, on the one hand, the limitations of indigenous manufacturers in the early stages of the industry, and on the other, the safety and efficiency of boilers. It is, therefore, considered necessary to associate with the Board the interests of manufacturers also. The association with the Board of other interests, such as the Indian Standards Institution and the coal industry, is also considered expedient. Further, it is desirable to ensure that this body consists of men with adequate technical knowledge of boilers and it is therefore proposed to lay down that the nominees of State Governments should be technical officers. The Bill accordingly provides for the revised composition of the Board (see clause 14).

3. Section 20 of the Act provides for an appeal against the decision of the Chief Inspector to an appellate authority which is to be constituted by each State Government. That authority can exercise its powers only subject to the provisions of the Act and the rules and regulations thereunder and it cannot accept any installation which does not conform to those regulations, i.e., the Indian Boiler Regulations. It often becomes necessary nowadays to admit and instal high pressure boilers at short notice, especially for big pro-

jects in the public sector, although such installations do not strictly conform to the Indian Boiler Regulations but are known to be technically sound and in actual use in other countries. If such new types of boilers are required to be admitted only after the regulations are amended, there will be delay, inconvenience and loss. It is, therefore, felt that the Central Government should have power to revise the decisions of the appellate authority in cases where that authority is not in a position to grant or renew certificates of registration in respect of such boilers; but this power will be exercised only in a few cases and that too after taking technical advice. The Bill confers such power on the Central Government (see clause 10).

4. The notes on clauses appended hereto explain, wherever necessary, the other amendments proposed to be made in the Act by the Bill.

NEW DELHI;

K. C. REDDY.

The 18th February; 1960.

FINANCIAL MEMORANDUM

Clause 5 of the Bill envisages the appointment of Deputy Chief Inspectors in the Boiler Inspectorates in the States. There is an Inspectorate of Boilers in the Union Territory of Delhi and although there is no intention of appointing a Deputy Chief Inspector of Boilers in this territory at present, the possibility of an officer of the above description being appointed in this Inspectorate in future cannot be entirely ruled out. In case, such appointment is made in future, it is estimated that it will entail an expenditure of about Rs. 7,500 per annum from the Consolidated Funds of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

New section 28A [inserted by clause 16 of the Bill] empowers the Central Government to make rules for the procedure to be followed in making applications under new section 20A, the fees payable in respect of such applications and any matter relating to the nomination of members under new section 27A (2) (a). These are matters which are incidental and consequential to the power vested in the Central Government by clauses 10 and 14 and can more appropriately be dealt with by rules.

Clause 15 which amends section 28(c) of the Act confers power on the Central Boilers Board to prescribe regulations regarding the fees payable for the inspection and examination of boilers or parts thereof. Such a provision is necessary for the effective working of the Act. The delegation of powers is of a normal character.

Notes on clauses

Clause 2, sub-clause (a), clause 4 and clause 8, sub-clause (a).—The changes made are due to the introduction of the metric system of weights and measures.

Sub-clause (b).—This is consequential on new section 5 (inserted by clause 5), which provides *inter alia* for the appointment of Deputy Chief Inspectors.

Sub-clause (c).—As the existing definition of “steam-pipe” does not take into account pipes of diameter of three inches and less and also the pressure at which steam passes through the pipe, the revised definition seeks to cover all pipes subjected to an internal steam pressure exceeding 3·5 kilograms per sq. centimetre above atmospheric pressure or pipes having an internal diameter exceeding 254 millimetres.

Clause 3.—As it is proposed to include in section 34 economisers also, it has become necessary to omit the reference to this section in section 2B.

Clause 5.—New section 5 differs from existing section 5 in the following respects:—

(1) In the new section, provision has been made for enabling State Governments to appoint persons as Deputy Chief Inspectors, as and when they think fit, for the purpose of giving relief to the Chief Inspector and to define the local limits of their jurisdiction.

(2) It has also been provided that the Chief Inspector, Deputy Chief Inspectors and Inspectors may give advice to owners regarding the proper maintenance and safe working of boilers. This would enable technical advice being given on the proper maintenance and safe working of boilers to the owners thereof, as they may not invariably possess knowledge of the same.

Clause 6, clause 9 and clause 17, sub-clause (b).—State Governments are now conducting examinations for testing the proficiency of boiler engineers and have also made rules for the grant of proficiency certificates to them. The amendments provide for the statutory recognition of such certificates.

Clause 7 and clause 8, sub-clauses (b), (c) and (d).—Under section 7(3) of the Act, the maximum period for which certificates

of registration can be granted is 12 months; but under the proviso to this section, certificates in the case of economisers may be granted up to 24 months. Some of the Oil Refineries recently set up in the country have contrivances known as "heat exchangers" which come within the definition of "boiler" and are registered as such. These heat exchangers, unlike boilers normally used for generating steam, are unfired and much less dangerous than economisers. If heat exchangers are to be opened up for inspection annually, as in the case of ordinary boilers, work in the Refineries would have to be stopped for at least a month, thereby involving considerable loss of production.

Again, under section 8(4), read with the second proviso thereto, the Inspector should fix the date for the examination of an economiser within 30 days of the receipt of the application and at the same time he has to give not less than 30 days' notice of the date fixed for its examination. This, however, is not practicable.

The amendments, therefore, provide (i) that as in the case of economisers, certificates in respect of these heat exchangers may be issued up to a maximum period of 24 months, and (ii) that the date fixed for the examination of an economiser need only be within 60 days from the date of receipt of the application.

Clause 11.—This is consequential upon clause 10 which inserts new section 20A.

Clause 12, sub-clause (b).—A regulation made by the Central Boilers Board prohibits a person being allowed to go inside a steam boiler unless it is effectively disconnected and the maximum penalty for a breach of this regulation, which can be provided under section 30 of the Act, is a fine of rupees one hundred only. It is considered that the amount of fine should be increased to rupees five hundred and specified in the Act itself.

Clause 13.—Section 26 of the Act, as it now stands, precludes the institution of a prosecution for an offence after the expiry of six months from its commission and every such prosecution requires the previous sanction of the Chief Inspector. Boilers are inspected annually, but the interval between two inspections may sometimes be even 18 months. It has often happened that such offences come to the notice of the Chief Inspector only after the expiry of six months and in such cases the offenders escape prosecution on this ground. The period of limitation for the institution of prosecutions has accordingly been increased to twenty-four months.

Clause 14.—The Statement of Objects and Reasons explains the reasons for these amendments. Power is also being given to the

Central Boilers Board to form committees and sub-committees of members to which its powers and functions may be delegated.

Clause 15.—The amendment makes it clear that the Central Boilers Board may make regulations prescribing fees for the inspection and examination of boilers or parts thereof.

Clause 16.—New section 28A(1) which is consequential on the insertion of new section 20A (*see* clause 10) and new section 27A(2) (a) (*see* clause 14), empowers the Central Government to make rules in respect of matters covered by those sections.

Clause 17, sub-clause (c).—The amendment makes it clear that State Governments may also make rules for the levy of fees in respect of certain matters.

Clause 18.—The amendment authorises the imposition of an enhanced penalty of fine up to Rs. 1000 in cases of second or subsequent contraventions of regulations and rules made under sections 28 and 29 respectively.

Clause 19.—It has been found by experience that it is very desirable to have uniformity in various matters relating to the administration of the Act by State Governments and that having regard to this consideration and to the need for co-ordinated planning at the Centre, a power to give suitable instructions to State Governments, as and when necessary, may vest in the Central Government.

Clause 20.—New section 34(2) seeks to bring out clearly the scope of the power of State Government to give exemptions, while new section 34(3) confers power on the State Government to exclude from the operation of the provisions of the Act, boilers which though at variance with the regulations under the Act are suitable in material, design or construction.

Clause 21 provides for the continuance in office of the members of the existing Board until it is re-constituted in accordance with the provisions of the Bill.

III

Bill No. IV of 1960

A bill further to amend the Press and Registration of Books Act, 1867.

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Press and Registration of Books (Amendment) Act, 1960.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment
of section 5.

2. In section 5 of the Press and Registration of Books Act, 1867²⁵ of 1867, (hereinafter referred to as the principal Act),—

(i) for rule (1), the following rules shall be substituted, namely:—

“(1) Every copy of every such newspaper shall contain the names of the owner and editor thereof printed clearly on such copy in such form and manner as may be prescribed, and also the date of its publication.”;

(ii) in rule (2), the words “, or such printer or publisher resides,” shall be omitted;

(iii) after rule (2A), the following rules shall be inserted, namely:—

“(2B) Where the printer or publisher of a newspaper making a declaration under rule (2) is not the owner thereof,

the declaration shall specify the name of the owner and shall also be accompanied by an authority in writing from the owner authorising such person to make and subscribe such declaration.

(2C) A declaration in respect of a newspaper made under rule (2) and authenticated under section 6 shall be necessary before the newspaper can be published.

(2D) Where the title of any newspaper or its language or the periodicity of its publication or its ownership is changed, the declaration shall cease to have effect and a new declaration shall be necessary before the publication of the newspaper can be continued.”;

(iv) for rule (4), the following rule shall be substituted, namely:—

“(4) As often as the printer or the publisher who shall have made such declaration as is aforesaid shall leave India for a period exceeding thirty days or where such printer or publisher is by infirmity or otherwise rendered incapable of carrying out his duties for a period exceeding thirty days in circumstances not involving the vacation of his appointment, a new declaration shall be necessary.”;

(v) in rule (5), in clauses (a) and (b), for the words “of the declaration”, the words “of the authentication of the declaration under section 6” shall be substituted;

(vi) in rule (8), in the proviso, after the words “no person”, the words “who does not ordinarily reside in India, or” shall be inserted.

3. In section 6 of the principal Act,—

**Amendment
of section 6.**

(i) in the proviso to the first paragraph, for the words “is satisfied from such inquiry as he thinks fit to make from the Press Registrar or otherwise”, the words “is, on inquiry from the Press Registrar, satisfied” shall be substituted;

(ii) for the fourth paragraph, the following paragraph shall be substituted, namely:—

“A copy of the declaration attested by the Official Seal of the Magistrate, or a copy of the order refusing to authenticate the declaration, shall be forwarded as soon as possible to the person making and subscribing the declaration and also to the Press Registrar.”.

Insertion of
new sections
8B and 8C.

4. After section 8A of the principal Act, the following sections shall be inserted, namely:—

Cancellation
of declara-
tion.

“8B. If, on an application made to him by the Press Registrar or any other person or otherwise, the Magistrate empowered to authenticate a declaration under this Act, is of opinion that any declaration made in respect of a newspaper should be cancelled, he may, after giving the person concerned an opportunity of showing cause against the action proposed to be taken, hold an inquiry into the matter and if, after considering the cause, if any, shown by such person and after giving him an opportunity of being heard, he is satisfied that—

(i) the newspaper, in respect of which the declaration has been made is being published in contravention of the provisions of this Act or rules made thereunder; or

(ii) the newspaper mentioned in the declaration bears a title which is the same as, or similar to, that of any other newspaper published either in the same language or in the same State; or

(iii) the printer or publisher has ceased to be the printer or publisher of the newspaper mentioned in such declaration; or

(iv) the declaration was made on false representation or on the concealment of any material fact or in respect of a periodical work which is not a newspaper;

the Magistrate may, by order, cancel the declaration and shall forward as soon as possible a copy of the order to the person making or subscribing the declaration and also to the Press Registrar.

Appeal.

8C. (1) Any person aggrieved by an order of a Magistrate refusing to authenticate a declaration under section 6 or cancelling a declaration under section 8B may, within sixty days from the date on which such order is communicated to him, prefer an appeal to the Appellate Board to be called the Press and Registration Appellate Board consisting of a Chairman and another member to be appointed by the Central Government:

Provided that the Appellate Board may entertain an appeal after the expiry of the said period, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) On receipt of an appeal under this section, the Appellate Board may, after calling for the records from the Magistrate and

after making such further inquiries as it thinks fit, confirm, modify or set aside the order appealed against.

(3) Subject to the provisions contained in sub-section (2), the Appellate Board may, by order, regulate its practice and procedure.

(4) The decision of the Appellate Board shall be final.”.

5. Section 15 of the principal Act shall be re-numbered as sub-section (1) thereof and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

Amendment
of section 15.

“(2) Where an offence is committed in relation to a newspaper under sub-section (1), the Magistrate may, in addition to the punishment imposed under the said sub-section, also cancel the declaration in respect of the newspaper.”.

6. In section 19C of the principal Act, for the words “the Press Registrar shall cause relevant entries to be made in the Register in respect of the newspaper and shall”, the words “and on the publication of such newspaper, the Press Registrar shall” shall be substituted.

Amendment
of section
19C.

7. In section 19K of the principal Act, clause (b) shall be omitted.

Amendment
of section
19K.

8. In section 20A of the principal Act,—

Amendment
of section
20A.

(a) in sub-section (1),—

(i) in clause (a), the following words shall be inserted at the end, namely:—

“and the form and manner in which the names of the owner and the editor shall be printed on every copy of a newspaper”;

(ii) in clause (b), the following words shall be inserted at the end, namely:—

“and to the person making and subscribing the declaration”;

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses

agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.

Insertion of
new section
20B.

9. After section 20A of the principal Act, the following section shall be inserted, namely:—

Rules made
under this
Act may
provide that
contraven-
tion thereof
shall be
punishable.

“20B. Any rule made under any provision of this Act may provide that any contravention thereof shall be punishable with fine which may extend to one hundred rupees.”.

Amendment
of section
21.

10. To section 21 of the principal Act, the following proviso shall be added, namely:—

“Provided that no such notification shall be issued without consulting the Central Government.”.

STATEMENT OF OBJECTS AND REASONS

The Press and Registration of Books Act was amended in 1955 to provide *inter alia* for the setting up of a machinery under a Central Press Registrar for the collection of statistics relating to newspapers, maintenance of a register of newspapers and other ancillary matters. The working of this Act during the last few years has revealed certain anomalies and difficulties and it is proposed to remove them by suitably amending the Act for the purpose.

2. Under the existing law, there is no specific provision for the cancellation of any declaration once it has been authenticated. This has sometimes led to a situation where a declaration had to be allowed to continue, although it was found defective in law. It is, therefore, proposed to empower a magistrate to cancel a declaration under certain circumstances. This power of cancellation will be exercised only after giving the persons affected an opportunity of showing cause against the action proposed to be taken. In case where a proprietor or any other person feels aggrieved by an order of a magistrate cancelling a declaration it is proposed to provide for an appeal against such order to a Board to be set up by the Central Government. It is also proposed that an appeal might lie to the same Board when a magistrate refuses to authenticate a declaration made by any person.

3. Under the existing law it is possible for a newspaper to continue publication uninterrupted without filing a fresh declaration even when the ownership changes. It is proposed to make the filing of a declaration obligatory in such cases and to provide that the printer and publisher should be authorised in writing by the owner to file such declarations. The filing of a fresh declaration is also made necessary when the language or periodicity of a newspaper changes or when a publisher or printer is incapable of carrying out his duties for a period exceeding thirty days.

4. Though the Act contemplates that the printer, publisher and editor of a newspaper should ordinarily be residents in India, there is no specific provision to this effect in the Act. It is proposed to make this point clear beyond any possibility of doubt.

5. In order to associate the owner of a newspaper with the responsibility of its publication and printing, it is proposed to provide that every copy of the newspaper should contain the name of the owner thereof, in addition to the names of its printer, publisher and editor. It is also proposed to provide that every copy of a newspaper should contain the date of its publication.

6. A doubt has arisen whether a magistrate is under any obligation to consult the Press Registrar before authenticating a declaration. As the Press Registrar is the only authority who would be in a position, on the basis of his records, to advise the magistrate in regard to this matter, it is proposed to lay down specifically that the magistrate should invariably consult the Press Registrar in every case before authenticating a declaration.

7. In order to facilitate the proper enforcement of the rules made by State Governments under section 20 of the Act, it is proposed to empower them to provide in such rules that any contravention thereof shall be punishable with fine not exceeding Rs. 100.

8. Under section 21, State Governments are empowered to exempt newspapers from the operation of the whole or any part of the Act. It is felt that, in the interest of uniformity, State Governments should consult the Central Government before granting such exemption to newspapers.

The Bill seeks to achieve these objects.

NEW DELHI;
The 23rd February, 1960.

B. V. KESKAR.

FINANCIAL MEMORANDUM

The Appellate Board to be set up under clause 4 of the Bill will consist of an official of the Ministry of Information and Broadcasting as Chairman and an official of the Ministry of Law as member and will not therefore involve any additional expenditure.

IV

Bill No. VI of 1960

A Bill to provide for free and compulsory primary education for children in the Union territory of Delhi

BE it enacted by Parliament in the Eleventh Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Delhi Primary Education Act, 1960.

(2) It extends to the Union territory of Delhi.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “academic year” means the year beginning on such date as a local authority may specify with respect to any specified area or with respect to approved schools generally or any approved school or class of approved schools in particular, within its jurisdiction;

(b) “approved school” means any school in any specified area within the jurisdiction of a local authority imparting primary education which—

(i) is under the management of the State Government or the local authority, or

(ii) being under any other management, is recognised by the local authority as an approved school for the purposes of this Act;

(c) "attendance authority" means any person appointed to be an attendance authority under section 5;

(d) "to attend an approved school" means to be present for instruction at an approved school on so many days in a year and at such time or times on each one of those days as may be fixed by the local authority concerned;

(e) "child" means a boy or girl within such age group, not being less than six or more than fourteen, as may be specified in a declaration made under section 4;

(f) "Delhi Cantonment", "New Delhi" and "rural areas" shall have the meanings respectively assigned to them in section 2 of the Delhi Municipal Corporation Act, 1957;

66 of 1957.

(g) "local authority" means the Municipal Corporation of Delhi, the New Delhi Municipal Committee and the Delhi Cantonment Board;

(h) "parent" means any person to whom the care, nurture or custody of any child falls by law or by natural right or recognised usage or who has accepted or assumed the care, nurture or custody of any child or to whom the care or custody of any child has been entrusted by lawful authority;

(i) "prescribed" means prescribed by rules made under this Act;

(j) "primary education" means education in and up to such classes or standards as may be prescribed;

(k) "special school" means any institution which imparts such education as is in the opinion of the State Government suitable for children suffering from any physical or mental defect;

(l) "specified area" means any area within the jurisdiction of a local authority in which primary education is declared by that authority to be compulsory under section 4.

3. (1) Any local authority may, by resolution, declare its intention to provide compulsory primary education in the whole or any part of the area within its jurisdiction for children ordinarily resident therein of such ages and up to such standard as it may decide and where it does so, it shall submit its proposals to the State Government in the form of a scheme.

Schemes for
Primary
education

(2) Any local authority, if called upon by the State Government so to do, shall within such time as may be specified by the State Gov

ernment submit a scheme for compulsory primary education in such area within its jurisdiction, for children ordinarily resident therein of such ages, and up to such standard as the State Government may specify.

(3) The scheme submitted under sub-section (1) or sub-section (2) shall be in such form as the State Government may specify and shall contain the following particulars,—

- (a) the area in which primary education will be compulsory;
- (b) the approximate number of children to whom the scheme will apply, classified according to age and mother-tongue;
- (c) a list of existing approved schools and the schools, if any, proposed to be opened for the purpose, classified by languages in which instruction is given or is proposed to be given;
- (d) the number of teachers already employed and the additional staff proposed to be recruited;
- (e) the recurring and non-recurring cost of the scheme; and
- (f) such other particulars as may be prescribed.

(4) The State Government may, after such inquiry as it may consider necessary, sanction with or without modifications the scheme submitted by the local authority under sub-section (1) or sub-section (2).

(5) No sanction shall be accorded under sub-section (4) in respect of any scheme unless the State Government is satisfied that such steps as may be prescribed have been taken to provide the necessary facilities for imparting compulsory primary education to all children to whom the scheme will apply.

Primary education to be compulsory in areas covered by schemes.

4. (1) On receipt of sanction under sub-section (4) of section 3, the local authority shall give effect to the scheme so sanctioned by means of a declaration that, with effect from the first day of the next academic year, primary education for children of either sex or both sexes and within such age-group as may be specified therein shall be compulsory in any area which may be so specified.

(2) Every declaration under sub-section (1) shall—

(a) be published in the Official Gazette and in such other manner as the local authority may decide;

(b) be so made as to ensure that there is an interval of not less than one hundred and twenty days between the date of the publication of the declaration and the first day of the next academic year.

5. (1) The local authority may appoint as many persons as it thinks fit to be attendance authorities for the purposes of this Act, and may also appoint as many persons as it considers necessary to assist the attendance authorities in the discharge of their duties.

Attendance authorities and their powers and duties.

(2) It shall be the duty of the local authority to cause to be prepared as early as possible after the publication of a declaration under section 4 and in such manner as may be prescribed, a list of children in any specified area.

(3) The attendance authority or any person appointed to assist the attendance authority may put such questions to any parent, or require any parent to furnish such information, about his child, as it or he considers necessary, and every such parent shall be bound to answer such questions or to furnish such information, as the case may be, to the best of his knowledge or belief.

(4) It shall be the duty of the attendance authority to notify the parent of every child to whom the declaration under section 4 applies, but against whom no attendance order has been passed under section 8, that he is under an obligation to cause the child to attend an approved school with effect from the beginning of the next academic year.

6. It shall be the duty of the parent of every child to cause the child to attend an approved school unless there be a reasonable excuse for his non-attendance within the meaning of section 7.

Responsibility of parent to cause his child to attend school.

7. (1) For the purposes of this Act, any of the following circumstances shall be deemed to be a reasonable excuse for the non-attendance of a child at an approved school,—

Reasonable excuse for non-attendance.

(a) that there is no approved school within the prescribed distance from his residence;

(b) that the only approved school within the prescribed distance from the residence of the child to which the child can secure admission is one in which religious instruction of a nature not approved by his parent is compulsory;

(c) that the child is receiving instruction in some other manner which is declared to be satisfactory by the State Government or by an officer authorised by it in this behalf;

(d) that the child has already completed primary education up to the standard specified in the declaration under section 4;

(e) that the child suffers from a physical or mental defect which prevents him from attendance;

(f) that the child has been granted temporary leave of absence by the local authority, or by any other person authorised by it in this behalf, for sickness or other prescribed reason;

(g) that there is any other compelling circumstance which prevents the child from attending school, provided the same is certified as such by the attendance authority.

(2) Notwithstanding anything contained in clause (e) of sub-section (1), the attendance authority may, if it is satisfied that, in relation to a child suffering from a physical or mental defect in any specified area, there is a special school within the prescribed distance from the residence of the child to which it could be sent and that nothing contained in clauses (b) and (c) of that sub-section applies in relation to such child, it may, by order, require the child to attend the special school, and sub-section (1) shall have effect in relation to such child as if clauses (f) and (g) thereof were the only provisions applicable.

Attendance
orders.

8. (1) Whenever the attendance authority has reason to believe that the parent of a child has failed to cause the child to attend an approved school and that there is no reasonable excuse for the non-attendance of the child within the meaning of section 7, it shall hold an inquiry in the prescribed manner.

(2) If as a result of the inquiry the attendance authority is satisfied that the child is liable to attend an approved school under this Act and that there is no reasonable excuse for his non-attendance within the meaning of section 7, it shall pass an attendance order in the prescribed form directing the parent to cause the child to attend the approved school with effect from the date specified in the order.

(3) An attendance order passed against a parent in respect of his child under this section shall, subject to the provisions of sub-section (6), remain in force for so long as this Act continues to apply to the child.

(4) If any parent against whom an attendance order has been passed in respect of his child under sub-section (2) transfers the custody of the child to another person during the period in which the attendance order is in force, such parent shall be bound to immediately inform the attendance authority in writing of such transfer.

(5) Where an attendance order has been passed against a parent in respect of his child under this section, such order shall have effect in relation to every other person to whom the custody of the child may be transferred during the period in which the attendance order is in force as it has effect in relation to the person against whom it is passed.

(6) A parent may at any time apply to the attendance authority for cancellation of an attendance order on the ground—

- (i) that he is no longer the parent in respect of the child; or
- (ii) that circumstances have arisen which provide a reasonable excuse for non-attendance;

and thereupon the attendance authority may, after holding an inquiry in the prescribed manner, cancel or modify the attendance order.

9. No person shall employ a child in a manner which shall prevent the child from attending an approved school.

Children not to be employed so as to prevent them from attending school.

10. (1) No fee shall be levied in respect of any child for attending an approved school which is under the management of the State Government or a local authority.

Primary education to be free.

(2) Where, in respect of any child an attendance order has been passed under section 8 and the only school which he can attend is an approved school under private management falling within sub-clause (ii) of clause (b) of section 2, the local authority may take such steps as it may think fit for the purpose of ensuring that the primary education which the child is to receive is free.

11. (1) The age of a child for the purposes of this Act shall be computed in terms of years completed by the child on or before the first day of the academic year.

Age of child how to be computed.

(2) Where the birthday of a child falls on a day not later than sixty days from the first day of the academic year, the birthday shall be deemed to fall on the first day of the academic year for the purpose of computing the age of the child under sub-section (1).

12. (1) If any parent fails to comply with an attendance order passed under section 8, he shall be punishable with fine not exceeding two rupees, and, in the case of a continuing contravention, with an additional fine not exceeding fifty *naye paise* for every day during which such contravention continues after conviction for the first of such contraventions:

Penalty for contravention of section 8.

Provided that the amount of fine payable by any one person in any year shall not exceed one hundred rupees.

(2) If any person fails to furnish any information as required by sub-section (4) of section 8, he shall be punishable with fine which may extend to twenty-five rupees.

Penalty for
contraven-
tion of
section 9.

13. If any person contravenes the provisions of section 9, he shall be punishable with fine which may extend to twenty-five rupees and, in the case of a continuing contravention, with an additional fine not exceeding one rupee for every day during which such contravention continues after conviction for the first of such contraventions.

Courts
competent
to try
offences.

14. The courts competent to try offences under this Act shall be the following,—

(a) in rural areas to which the Delhi Panchayat Raj Act, 1954 extends, the Panchayati Adalat, constituted under section 50 of that Act, within whose jurisdiction the person committing the offence resides;

Delhi Act
III of 1955.

(b) in other areas, the court of a magistrate having jurisdiction.

Cognizance
of offences.

15. No court shall take cognizance of an offence under this Act except on the complaint of an attendance authority or any other person authorised in this behalf by the local authority by general or special order.

Certain
persons to
be public
servants.

16. The attendance authority, every person appointed to assist the attendance authority under sub-section (1) of section 5 and every person authorised to make complaints under section 15 shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Protection
of action
taken in
good faith.

17. No suit, prosecution or other legal proceeding shall lie against the Government or any authority or person in respect of anything which is in good faith done or intended to be done under this Act.

Exemption
from
provisions
of Act.

18. If the State Government is satisfied that it is necessary or expedient so to do in the public interest or that circumstances exist which render it necessary so to do, it may, by notification in the Official Gazette, exempt any class of persons or any community in any specified area from the operation of any of the provisions of this Act.

Grant-in-
aid.

19. If a scheme submitted by a local authority is sanctioned under sub-section (4) of section 3, the State Government shall bear such percentage of the recurring and non-recurring cost of the scheme as it may from time to time determine.

Delegation
of powers.

20. (1) The State Government may, by notification in the Official Gazette and subject to such conditions, if any, as may be specified in the notification, authorise any officer or authority subordinate to it to exercise all or any of the powers conferred on the State Government by or under this Act.

(2) A local authority may, by general or special order and with the previous approval of the State Government, authorise any officer

or authority subordinate to it to exercise all or any of the powers conferred on a local authority by or under this Act.

21. (1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely,—

(a) the classes or standards education in and up to which shall be considered as primary education;

(b) the steps to be taken for providing necessary facilities for imparting compulsory primary education before according sanction under sub-section (4) of section 3;

(c) the manner in which lists of children may be prepared in any specified area under sub-section (2) of section 5;

(d) the distance beyond which a child cannot be compelled to attend an approved school;

(e) the manner in which any inquiry under this Act may be held;

(f) the form in which an attendance order under this Act may be passed;

(g) the registers, statements and other information to be maintained or furnished by approved schools for the purposes of this Act;

(h) any other matter which has to be, or may be, prescribed under this Act.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

22. On the date on which primary education becomes compulsory in any specified area, the Punjab Primary Education Act, 1940 as in force in the Union territory of Delhi shall stand repealed in such area.

Punjab Act
XVIII of
1940.

Repeal of
Punjab
Primary
Education
Act.

STATEMENT OF OBJECTS AND REASONS

There is at present no adequate and satisfactory law for the enforcement of compulsory primary education in the Union territory of Delhi. The Punjab Primary Education Act of 1940 which is in force in this territory is no longer found suitable to meet the local conditions. It is, therefore, proposed to repeal it and introduce a new and suitable legislation for the enforcement of compulsory primary education in Delhi. This Bill is designed to serve the purpose in view.

NEW DELHI;

K. L. SHRIMALI.

The 3rd March, 1960.

FINANCIAL MEMORANDUM

According to the available data on the items which are sanctioned at present and the estimates prepared by the Delhi Administration and the Delhi Municipal Corporation, it has been estimated that the scheme of compulsory primary education as envisaged in the Bill is likely to involve an additional expenditure of the order of Rs. 188 lakhs during the Third Five Year Plan and thereafter, an additional expenditure of about Rs. 50 lakhs annually. Clause 10 of the Bill makes primary education free in an approved school under the management of the State Government and under clause 19 thereof the Central Government will bear a certain percentage as prescribed in the rules of the recurring and non-recurring additional expenditure so involved. The actual amount to be spent will depend on the provisions accepted in the Plan and approved in the annual budgets as well as on any other desirable items of expenditure, which may be sanctioned in future.

A scheme of compulsory primary education will be sanctioned by the State Government only in respect of areas where necessary facilities for imparting such education to children of the required age group will be made available. The Bill, if enacted, will not, therefore, come into force simultaneously in the whole of the Union territory of Delhi but only by stages.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 21 of the Bill empowers the State Government to make rules to carry out the purposes of the Act. The various matters in respect of which such rules may be made have been specified in sub-clause (2) of that clause and relate to the specification of the classes or standards, education in and up to which shall be considered as primary education, the steps to be taken for providing necessary facilities for imparting compulsory primary education before according sanction under clause 3(4), the distance beyond which a child cannot be compelled to attend an approved school, the manner of holding inquiries under the Act, the percentage of the cost of the scheme to be borne by the Government and such other matters of detail and administrative procedure. These matters are of a procedural nature and relate to details which could more appropriately be left to be provided for in the rules, after taking into consideration the needs of day-to-day administration and local conditions.

The proposed delegation of legislative power is of a normal character.

S. N. MUKERJEE,
Secretary.

ERRATUM

Issue No. of the Gazette of India Extraordinary, Part II—Sec. 2, dated the 15th February 1960, containing pages 5 to 12, should be "2" instead of "49".